

SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

|   |   |
|---|---|
| Date/Time/Location of Incident:                       | May 13, 2015/1:40 PM/ [REDACTED]  |
| Date/Time of IPRA Notification:                       | August 8, 2016/2:33 PM  |
| Accused Officer #1:                                   | [REDACTED], star # [REDACTED], employee ID# [REDACTED],<br>Date of Appointment [REDACTED] 1994, rank Police<br>Officer, Unit of Assignment [REDACTED] Gang Enforcement,<br>DOB [REDACTED] 1970, Male, White.              |
| Accused Officer (not currently<br>active-retired) #2: | [REDACTED] star # [REDACTED], employee ID# [REDACTED], Date<br>of Appointment, rank, Unit of Assignment [REDACTED] - [REDACTED]<br>[REDACTED], DOB, Male, White.  |
| Accused Sergeant (currently a<br>Lieutenant) #1:      | [REDACTED] star # [REDACTED] (currently [REDACTED]), employee<br>ID# [REDACTED], Date of Appointment [REDACTED], 1998, rank<br>Sergeant, Unit of assignment [REDACTED] - [REDACTED]<br>DOB [REDACTED] 1975, Male, White.  |
| Witness Sergeant (currently a<br>Lieutenant) #1:      | [REDACTED] star# [REDACTED] (currently # [REDACTED]), employee ID#<br>[REDACTED], Date of Appointment [REDACTED] 1998, rank<br>Sergeant, Unit of Assignment [REDACTED] - [REDACTED],<br>DOB [REDACTED] 1971, Male, White. |
| Witness Officer (currently a<br>Sergeant) #1:         | [REDACTED] star # [REDACTED], employee ID# [REDACTED], Date<br>of Appointment [REDACTED] 2004, rank Police Officer,<br>Unit of Assignment [REDACTED] - Ga [REDACTED], DOB [REDACTED]<br>[REDACTED] 1975, Female, Black.   |
| Involved Individual #1:                               | [REDACTED] DOB [REDACTED] 1981, Male, Black.  |
| Witness Individual #2:                                | [REDACTED] DOB [REDACTED] 1986, Male, Black. <sup>2</sup>   |
| Case Type:  | False Arrest, Excessive Force, Removed from Vehicle<br>without Cause.   |

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

<sup>2</sup> [REDACTED] did not agree to cooperate with the investigation until December 23, 2017.

## I. ALLEGATIONS

| Officer             | Allegation  | Finding       |
|---------------------|---|---------------|
| Officer [REDACTED]  | 1. It is alleged by [REDACTED] that on May 13, 2015 at or near [REDACTED], Officer [REDACTED] [REDACTED] arrested him without probable cause.                                   | Not Sustained |
|                     | 2. It is alleged by [REDACTED] that on May 13, 2015 at or near [REDACTED] Officer [REDACTED] [REDACTED] removed him from the vehicle in question without cause.                 | Exonerated    |
|                     | 3. It is alleged by [REDACTED] that on May 13, 2015 at or near [REDACTED], Officer [REDACTED] [REDACTED] used excessive force when he removed him from the vehicle in question. | Not Sustained |
| Officer [REDACTED]  | 1. It is alleged by [REDACTED] that on May 13, 2015 at or near [REDACTED] Officer [REDACTED] [REDACTED] arrested him without probable cause.                                    | Not Sustained |
| Sergeant [REDACTED] | 1. It is alleged by [REDACTED] that on May 13, 2015 at or near [REDACTED] Sergeant [REDACTED] [REDACTED] arrested him without probable cause.                                   | Not Sustained |
|                     | 2. It is alleged by [REDACTED] that on May 13, 2015 at or near [REDACTED] Sergeant [REDACTED] [REDACTED] removed him from the vehicle in question without cause.                | Exonerated    |
|                     | 3. It is alleged by [REDACTED] that on May 13, 2015 at or near [REDACTED] Sergeant [REDACTED] [REDACTED] used excessive force when he removed him from the vehicle in question. | Not Sustained |

## II. SUMMARY OF EVIDENCE<sup>3</sup>

On May 13, 2015, police curbed a vehicle driven by [REDACTED] for failure to yield when exiting an alley. Passenger and subject [REDACTED] was arrested for Obstructing Identification. [REDACTED] alleged Chicago Police Officers arrested him without probable cause. [REDACTED] further alleged that Officer [REDACTED] removed him from a vehicle without cause; and that Officer [REDACTED] and Sergeant [REDACTED] used excessive force when they removed him from the vehicle he was in.

COPA reviewed all relevant reports including the arrest report, original case incident report, case supplementary report, court filings, deposition transcripts, hearing transcript, OEMC event query, court record indicating an Ex/Parte Judgment of Conviction against [REDACTED] on the ticket he received in relation to this incident, misdemeanor complaint, and the First Amended Complaint and resulting Settlement Agreement. COPA conducted an audio recorded interview of both [REDACTED] and [REDACTED].<sup>4</sup> IPRA did not interview the officers and COPA chose to rely on prior sworn statements from the involved officers. No digital evidence was available to COPA. Neither Officer [REDACTED] nor Sergeant [REDACTED] completed a Tactical Response Report (TRR), and since IPRA did not include this as an allegation, COPA has declined to do so now.

## III. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

---

<sup>3</sup>COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA's ongoing efforts to increase case closure capacity, certain cases opened under IPRA are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

<sup>4</sup> The driver of the vehicle, [REDACTED] was interviewed by COPA on June 13, 2018. However, the statement [REDACTED] gave is being given little or no weight because his account of events is at odds on issues that are not in dispute. For example, he stated that [REDACTED] was driving at the time of the traffic stop which contradicts both [REDACTED] and the officers' accounts. As mentioned earlier, [REDACTED] received a ticket for the traffic violation. Furthermore, [REDACTED] located in [REDACTED] was interviewed over the phone, and failed to return either set of documents that were sent to him, to include the sworn affidavit. He did, however, state that [REDACTED] did spell his name for the officers, he just did not remember how.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

#### IV. ANALYSIS AND CONCLUSION

COPA finds that **Allegation I** for Officer [REDACTED] Officer [REDACTED]<sup>5</sup> and Sergeant [REDACTED] are **Not Sustained**. There is not enough evidence to determine whether the event occurred in the manner alleged by [REDACTED].

*Brendlin v. California*, 551 U.S. 249 (2007), established that when a vehicle is stopped the passengers are seized along with the driver. 720 ILCS 5.0/31-4.5A, *Obstructing Identification*, states: "(a) A person commits the offense of obstructing identification when he or she intentionally or knowingly furnishes a false or fictitious name, residence address, or date of birth to a peace officer who has: (2) lawfully detained the person." In this case, [REDACTED] was a passenger in the vehicle driven by [REDACTED] which was curbed for failing to yield after exiting an alley.<sup>6</sup> Furthermore, at some time before the traffic stop, the arresting officers heard a radio dispatch that there was a male black with dreadlocks seen in the area with a firearm. [REDACTED] fit the limited description that the officers had at the time.

Either Officer [REDACTED] or Officer [REDACTED] asked [REDACTED] for identification. [REDACTED] stated he did not have his ID but gave the officer his name.<sup>7</sup> According to Officer [REDACTED] and Officer [REDACTED] [REDACTED] said his name was [REDACTED] and spelled it [REDACTED] E-Z. According to [REDACTED] he simply said his name was [REDACTED] and did not spell it.

Officer [REDACTED] ran the name [REDACTED] through the LEADS database and failed to get a result. The officers asked [REDACTED] to give them his real information, to which [REDACTED] replied that he did not have to give them any information. The officers called for a sergeant after many failed attempts to get clarification on [REDACTED] name. Sergeants [REDACTED] and [REDACTED] arrived on the scene.<sup>8</sup> [REDACTED] refused Sergeant [REDACTED] requests for his name. Sergeant [REDACTED] and/or Officer [REDACTED] removed [REDACTED] from the vehicle. Officer [REDACTED]

<sup>5</sup> Officer [REDACTED] a third officer, was also present but has no allegations.

<sup>6</sup> [REDACTED] was issued ticket # [REDACTED].

<sup>7</sup> Depending on whose account you consider, [REDACTED] either did not did not also provide his date of birth.

<sup>8</sup> Officer [REDACTED] claimed that Sergeant [REDACTED] came to the scene, but it has been otherwise determined that the main Sergeant on the scene was Sergeant [REDACTED]. There was no Sergeant [REDACTED] at the scene.

performed a pat down and retrieved a driver's license in [REDACTED] pants pocket.<sup>9</sup> Officer [REDACTED] ran the name on the driver's license and it came up clear. The officers arrested [REDACTED] for obstructing identification.<sup>10</sup>

The conflicting accounts of what exactly [REDACTED] said to the officers when he gave them his name made it impossible to determine whether or not the officers had probable cause to arrest him, therefore, the allegation is Not Sustained.

COPA finds that **Allegation 2** against Officer [REDACTED] and Sergeant [REDACTED] is **Exonerated**. The officers acted within policy regarding the violation alleged by [REDACTED].

*Pennsylvania v. Mimms*, 434 U.S. 106, 108-09 (1977), established that an order by police for the driver or any passengers to get out of a car, issued after the subject was lawfully detained, is reasonable under the Fourth Amendment. According to the *Force Options Model* (CPD-11.960 (11/17)), a passive or active resistor can be subjected to the use of compliance techniques. In this case, the accused officer and/or accused sergeant used a compliance technique to remove [REDACTED] from the vehicle after [REDACTED] refused to step out on his own.<sup>11</sup>

There is no dispute that the officers removed [REDACTED] from the vehicle in question. Based on the totality of the circumstances, there is no violation regarding this matter and the officer and/or sergeant are Exonerated.

COPA finds that **Allegations 3** against Officer [REDACTED] and Sergeant [REDACTED] is **Not Sustained**. There is not enough evidence to determine whether the event occurred in the manner alleged by [REDACTED].

[REDACTED] claimed that Officer [REDACTED] grabbed him around the wrist and bicep, and then began to pull him from the vehicle. However, Officer [REDACTED] stated in his deposition that Sergeant [REDACTED] was the only person who performed the compliance technique and removed [REDACTED] from the vehicle on his own.

[REDACTED] also claimed that the person who removed him from the vehicle swung him around into the back of the car and twisted his arm up very high. He claimed that he had some pain and swelling in the chest and abdomen area, his right shoulder and his wrist. He did not seek any sort of medical treatment and [REDACTED] did not provide photos of any injuries to either IPRA or COPA.


It is not unreasonable that a subject experience some degree of physical unrest when an officer performs any sort of compliance technique. [REDACTED] admitted refusal to exit the vehicle suggested that some level of effort by the officers was required to extract him from the

<sup>9</sup> Although the item retrieved from [REDACTED] pocket was not a weapon, COPA declined to assign an allegation for an illegal search. The Circuit Court of Cook County denied a motion to dismiss, taking the case to judgment, which suggested that the issue regarding the driver's license had little or no impact on the case.

<sup>10</sup> Officer [REDACTED] stated in his deposition at 106:13 that he made the decision to arrest [REDACTED].

<sup>11</sup> The accounts of [REDACTED] and the officers on scene are inconsistent as to who removed [REDACTED] from his vehicle. By all accounts, it was Officer [REDACTED] or Sergeant [REDACTED] who removed him from the vehicle. Regardless of who it was, it would have been proper to do so under *Mimms*.

vehicle. Because there is no corroborating evidence that the officers used more force than was necessary under the circumstances, the allegation is Not Sustained.

Approved: 

5-19-19  
Date

*Deputy Chief Administrator – Chief Investigator*

**Appendix A**

**Assigned Investigative Staff**

**Squad#:**



**Investigator:**



**Supervising Investigator:**



**Deputy Chief Administrator:**

